

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

DESHAUNE D. DARLING,)	
)	Case No. 007-683 GMS
Plaintiff,)	JURY TRIAL DEMANDED
v.)	
)	
CARL DANBERG, THOMAS CARROLL,)	
CORRECTIONAL MEDICAL SERVICE,)	
RICHARD P. DUSHUTTLE, M.D., and)	
DEPUTY WARDEN DAVID PIERCE)	
)	
Defendants.)	

DEFENDANT CORRECTIONAL MEDICAL SERVICES, INC.S'
REPLY IN SUPPORT OF ITS MOTION TO DISMISS (D.I. 18)

Defendant Correctional Medical Services, Inc. ("CMS") by and through its undersigned counsel of record, filed its Motion to Dismiss claims for medical negligence made pursuant to Delaware state law. (D.I. 18) Plaintiff has responded by citing *McCray v. First State Medical Systems*, 379 F.Supp.2d 635, n.1 (D.Del. 2005) in support of his request that the Court "reject" CMS's Motion, claiming that he is not making any claims pursuant to State law. (D.I. 21) Plaintiff's Complaint, however, uses terms such as "neglect" and "malpractice." (D.I. 2)

For purposes of a clear record, CMS respectfully requests entry of an order dismissing with prejudice all state law claims for medical negligence.

BALICK & BALICK, LLC

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Date: April 21, 2008

CERTIFICATE OF SERVICE

I, James Drnec, hereby certify that on the 21st day of April 2008, the foregoing Defendant Correctional Medical Services, Inc.'s Reply in Support of its Motion to Dismiss was filed via CM/ECF and served First Class Mail upon the following:

Deshaune Darling
SBI# 229896
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ James E. Drnec
James E. Drnec, Esquire (#3789)